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Legal Education at Notre Dame Law School: The Lasting Significance of its Catholic Dimension

Peter T. King*

Reflections by an alumnus are necessarily suspect. After confronting the harsh realities of more than a quarter of a century of post law school life—raising kids, pursuing a career, paying tuition bills, facing illness and death of loved ones, and struggling against the odds to resist the *zeitgeist* and achieve something meaningful—there is the strong temptation to look back at your law school years more with nostalgia than reason. And I suppose I would be particularly suspect since my class celebrated our twenty-fifth reunion this past fall.

Having proffered that *caveat*, however, I reject its application to Notre Dame Law School because I believe strongly that our Law School was, and is, a unique place. I find myself thinking of the Law School the most, not when I'm trying to escape, but when I'm in the eye of a storm and need to set my moral compass. That's what made Notre Dame Law School so unique—it applied a moral dimension and Catholic teaching to the real world practice of law. The morality we learned was not that of the cloisters or of self-righteous debating societies. Instead, it was firmly rooted in the Catholic tradition exemplified by St. Thomas More. The law would be practiced and utilized as skillfully as possible. There would be no shrinking from *realpolitik*. But when the time came to choose between rightness and expediency, we must follow Thomas More and reject expediency. Easier said than achieved? Of course! But that was the uniqueness of Notre Dame's challenge.

Notre Dame's moral dimension extended not just to Natural Law or Professional Responsibility classes but to virtually every course we took. A vivid case in point would be Professor Ed Murphy's Contracts class. A teacher's teacher, Professor Murphy was scholarly and hard-nosed. He would track every principle of contract law from the common law through the Uniform Commer-

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cial Code detailing every change, nuance and progression along the way. Regularly, he would provoke strong debate on the morality of court decisions and statutory enactments. Yet, he made it brutally clear to us that to pass his course—let alone get a good grade—we had to know the law. We had to be able to identify the issue and effectively address it. Professor Murphy's bottom line was that he was teaching Contracts, not Philosophy or Theology.

Professor Murphy's blend of reality and idealism exemplified the Law School's philosophy—which probably can most aptly be described as a blue-collar Catholicism. It was a philosophy particularly well suited for the Notre Dame students of that day. For one thing, we *were* overwhelmingly blue-collar. Virtually all of us came from working-class families. We were also all male and very Catholic. Except for Dick Hirsch who was Jewish, and maybe two or three others who were Protestant, our graduating class of fifty-six students was Catholic. And in those days, "Catholic" meant Catholic neighborhoods, Catholic grammar school, Catholic high school and Catholic college. Very few of us had parents who attended college. We were the first generation of Catholics to be going on to college and graduate education in such large numbers. Even though we were not aware of the sociological implications at the time, we had broken free from our Catholic ghettos and were ready to make our mark in American society. Notre Dame reinforced our neighborhood values and gave us the ability to practice them in modern life.

Despite our common backgrounds there was political diversity ranging from enlightened Goldwater Republicans such as myself to somewhat left-of-center Democrats who probably constituted a majority of the class. Debates and arguments were frequent and heated. My closest friend in law school, and still the smartest guy I've met, was Dick Manning. Dick was a committed Kennedy Democrat and he and I would often have political discussions which would very quickly evolve into raging arguments lasting until two or three o'clock in the morning. These mini Bengal Bouts never left any hard feelings but only strengthened our friendship.

I'm not trying to suggest that every one of us loved one another or that we went through three years of absolute harmony. There were quite a few strong personalities and there were some who just didn't get along with each other. But having said that, there was an unusual camaraderie and friendship. Most importantly, and I have to admit that at the time I didn't realize how unusual this was for law students, no one tried to "one-up" anyone

else. From the day you first start thinking of going to law school you're told that nothing is more important than class rank. Your job opportunities and your future as a lawyer are dictated more than anything else by your class rank. To give some idea of how competitive it was, our grades were numerical and often a one point difference in average—say an 81 instead of an 82—could mean six or seven places in rank. Yet, even though we competed for high marks, we didn't compete against each other. For instance, we would always make our notes available to one another without any thought of holding back. And some guys gave a lot more than they ever received in return. Charlie Weiss, who was more conscientious about studying than some of us, always let me use his notes and "dope sheets" and, as a sign of his good judgment, almost never asked to look at any of my work. Also, no one begrudged anyone else's success. It would have been unheard of to complain about someone getting a higher mark than you. Similarly, I never even heard it hinted that anyone violated the honor code. Under the honor code you could take the exam wherever you wanted—in the classroom, in your apartment, anywhere—but you were not allowed to look at any books or notes or other materials whatsoever. Even though rank was so critical and the ever-present threat of flunking out remained (two third-year students in the class ahead of mine flunked out in their final semester), I would be the most surprised person in the world if I found out that there had been violations of the honor code. If there was one prime reason for such voluntary compliance with the honor code, it was the realization that to violate it would give you an unfair advantage over friends with whom you had formed such close relationships.

Yet, within the rules set for us and the ground rules we set for ourselves, the adversarial process was brutal. We prepared for the first-year Moot Court competition as if it were a championship fight. On the night of the argument we would go at each other toe-to-toe and were literally drained when it was over. I was also in the Moot Court Society during my second year and argued another four cases. The one point of which we were constantly reminded was to find the key issues and to hit them as forcefully as possible. To demonstrate how well that lesson was taught, I'll briefly recount an incident which occurred during the summer between my second and third years. I was interning in a New York law firm and was assigned to work with a law student from New York University named Rudy Giuliani who, of course, would go on to Mafia-

busting fame and be elected Mayor of New York City. One job we were given was to write a memorandum establishing that issuing municipal bonds in Mississippi was not violative of that state's constitution. When Rudy read my sections of the memorandum, he told me how surprised he was by the certitude and forcefulness of my arguments. Apparently, they were not as direct at NYU. At Notre Dame we wouldn't have had it any other way.

The strong bond among the students and our commitment to succeed within a firm moral context had to be based upon more than our interest in the law. After all, most law students at every law school in the country were interested in the law. Moreover, as painful as it is to make this admission against interest, there were other law schools with students as smart as we were and a few that were even smarter. Looking at it in retrospect, it is clear to me that the defining difference was Notre Dame's firmly based Catholic tradition and a student body imbued with that same tradition. It was a tradition that made us acknowledge that there are firm principles of right and wrong and that we are responsible for what we do. And it was a tradition which simultaneously urged us to fight for our beliefs in the real world.

At this juncture I should make it clear that I am using "Catholic" in a cultural as much as theological sense. For instance, not every "Catholic" student went to Sunday mass or observed every Catholic precept. Most would have very much resisted being termed religious. But no matter the extent to which they considered themselves practicing Catholics, the overwhelming majority approached issues from a moral framework. However, at the risk of fomenting a theological debate, I believe that the moral dimension would have been about the same if the Law School had been "Judeo-Christian" rather than Catholic. A law school rooted in Jewish or Protestant belief—i.e., traditional values—could have produced a moral dimension very similar to that at Notre Dame. The reality is, however, that by the mid-1960's most religiously affiliated law schools had yielded to secularization. I must also point out that the non-Catholic students in our class were no less principled than the rest of us. They had signed on for the same ride we had.

The fact is, though, that we went to law school, not a seminary. And after we graduated, we had to make a living and support our families. In my own case, I practiced law for a number of years, first in large firms and then as a sole practitioner. Along the way I became active in politics. For the past thirteen years I have

been exclusively in elected office, serving three terms as Nassau County Comptroller in New York before being elected to Congress in 1992.

Politics is an inexact science in an imperfect world but, utilized correctly, can yield worthwhile results. For the record, I am not a reformer. Indeed most reformers strike me as self-righteous dilettantes. I am not opposed—morally or otherwise—to hard bargaining, horse trading or compromise when that's what it takes to get the job done. The great balancing act is to make sure that I don't compromise so much that I sell my soul. Often the distinction is not so clear. There are times though when the choice is painfully obvious. Acknowledging that my record is far from perfect, there have been several instances when I've had to confront moral choices head-on—such as resisting my own Party when it attempted to silence me for opposing British rule in Northern Ireland, and fighting the local monopoly tabloid which barraged me for my pro-life stand on abortion. In all such instances I drew direction and strength from my Notre Dame experience.

Whatever good I've done or tried to do is nothing more than what so many of my classmates are doing. Just a few examples: Jack Sander, who had to overcome more hardships than any of us, is the Chairman of the Chicago Mercantile Exchange and was recently named to the University's Board of Trustees; Tom Ward, who has an unsurpassed grasp of commercial law, is a Professor at the University of Maine Law School; Tom Curtin, partner in a major New Jersey firm, is President of the New Jersey State Bar Association. And, of course, so many of our professors attained great eminence—Professor Murphy with his definitive Contracts textbook; Professor Blakey authoring the RICO statute; Professor Shaffer serving as Dean of the Law School; and Father Lewers gaining national renown for his human rights efforts.

I would be remiss if I didn't discuss Dean O'Meara who ruled the Law School with an iron hand for fourteen years and retired when our class graduated. Even after all these years, it's difficult to have much warm feeling for the Dean. But, then again, he never did care if we liked him or not. Indeed, he appeared to take perverse delight in incurring student wrath. He was high-handed and arbitrary and probably what best exemplifies his attitude toward us was the customary greeting he gave as we entered his office: "Well, what can you do for me today?" No, the Dean did not generate warmth or love but he did get our respect. None of us ever questioned his dedication or his integrity. We also knew

that he always worked as hard as he asked us to work. And though he kept his distance from us, the Dean knew what we were about. In his final report he wrote:

[O]ur School has become a *community*, come together to study law and I should add, committed to justice. A member of the class of '68 put it this way. "The students work together, study together, play together. Their comradeship is impossible to understand unless you have been here" In short the School has been a happy as well as a busy place.¹

In more characteristic form the Dean concluded his report with the exhortation: "The way to virtual perfection is not for the lazy, the weak or the timid. It can be traveled only by those with stout hearts and . . . an 'habitual vision of greatness.'"²

At our twenty-fifth reunion Lanny Bonenberger said that his lasting memory of Notre Dame Law School is of "special people who came together at a special time at a special place." As usual, Lanny was on to something. But in truth, I think we were very regular people who had our lives forever enhanced by that very special place known as the Notre Dame Law School.

1 Dean Joseph O'Meara, Report of the Dean, Notre Dame Law School 2 (1967-68).

2 *Id.* at 36.